



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF
United States Patent and Trademark
Address: COMMISSIONER FOR PATENT
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION
10/022,262	12/20/2001	Shunpei Yamazaki	12732-086001	7645

26171 7590 10/06/2003

FISH & RICHARDSON P.C.
1425 K STREET, N.W.
11TH FLOOR
WASHINGTON, DC 20005-3500

EXAMINER
HOGANS, DAVID L

ART UNIT	PAPER NUMBER
2813	

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/022,262

Applicant(s)

YAMAZAKI ET AL

Examiner

David L. Hogans

Art Unit

2813

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 21-66, 77 and 78 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application)
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____

- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

This Office Action is in response to Amendment D filed on June 30, 2003.

Status of Claims

Claims 1-19 are pending. Claims 67-76 are cancelled. Claims 21-66 and 77-78 are withdrawn.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US2001/0010370 Patent Application Publication to Kimura et al. in view of 6,319,741 to Izumi et al.

Claims 1, 3, 5-7, 9, 11-13, 15, 19 and 20

Kimura et al., in paragraphs 0027-0029, teaches a plurality of pixels (which inherently can be used in a personal computer) arranged in a matrix; each pixel comprising a switching element (TFT) and a light emitting element; a plurality of source signal lines which supply signals to the switching elements; a plurality of power supply lines which supply potentials to the light emitting elements; wherein at least one of the source signal lines comprises a first conductor and a first conductive coating on upper and side surfaces of the first conductor; and/or wherein at least one of the power supply

lines comprises a second conductor and a second conductive coating on upper and side surfaces of the second conductor.

Kimura et al. fails to explicitly teach wherein the light emitting element comprises a light emitting layer including an organic compound and wherein conductive lines within a light emitting device are plated.

However, Izumi et al., in columns 7-11 lines 25-35, teaches wherein the light emitting layer includes an organic compound and wherein the conductive lines are plated with gold (Au).

It would have been obvious to one of ordinary skill in the art to modify Kimura et al. by incorporating a light emitting layer with an organic compound and conductive lines plated with gold (Au), as taught by Izumi et al., to make it easier to pass electric current through conductive lines of every kind of optical media display device that involves metal interconnections. (See column 4 lines 53-60 and column 11 lines 14-28)

Claims 2, 8 and 14

Incorporating all arguments of Claims 1, 7 and 13 and noting that the method of forming a device is not germane to the issue of patentability of the device itself. Therefore, the limitation of "wherein the plated film is formed by an electroplating method", has not been given patentable weight. Note that a "product by process" claim

Art Unit: 2813

is directed to the product per se, no matter how actually made, In re Hirao, 190 USPQ 15 at 17 (footnote 3). See also In re Brown, 173 USPQ 685; In re Luck, 177 USPQ 523; In re Fessmann, 180 USPQ 324; In re Avery, 186 USPQ 161; In re Wertheim, 191 USPQ 90 (209 USPQ 554 does not deal with this issue); In re Marosi et al, 218 USPQ 289; and particularly In re Thorpe, 227 USPQ 964, all of which make it clear that it is the patentability of the final product per se which must be determined in a "product by process" claim, and not the patentability of the process, and that an old or obvious product produced by a new method is not patentable as a product, whether claimed in "product by process" claims or not. Note that applicant has the burden of proof in such cases, as the above case law makes abundantly clear.

Claims 4, 10 and 17

Incorporating all arguments of Claims 1, 7 and 13 and noting that Kimura et al. fails to explicitly teach wherein at least one of the first conductors or plated films is made of the same material as a gate electrode of the switching element.

However, Izumi et al., in column 4 lines 33-53 and columns 7-8 lines 61-12 and column 10 lines 42-65, teaches wherein at least one of the first conductors or plated films is made of the same material as a gate electrode of the switching element.

It would have been obvious to one of ordinary skill in the art to modify Kimura et al. by incorporating wherein at least one of the first conductors or plated films is made of

Art Unit: 2813

the same material as a gate electrode of the switching element, as taught by Izumi et al., because Al is displaceable with Au (i.e. – for the first conductors) and Ta (a noble metal) would deposit well on Ta (i.e. – for the plated films).

Claim 16

Incorporating all arguments of Claim 13 and noting that the method of forming a device is not germane to the issue of patentability of the device itself. Therefore, the limitation of “wherein the first conductor and the second conductor are simultaneously formed”, has not been given patentable weight. Note that a “product by process” claim is directed to the product per se, no matter how actually made, *In re Hirao*, 190 USPQ 15 at 17 (footnote 3). See also *In re Brown*, 173 USPQ 685; *In re Luck*, 177 USPQ 523; *In re Fessmann*, 180 USPQ 324; *In re Avery*, 186 USPQ 161; *In re Wertheim*, 191 USPQ 90 (209 USPQ 554 does not deal with this issue); *In re Marosi et al*, 218 USPQ 289; and particularly *In re Thorpe*, 227 USPQ 964, all of which make it clear that it is the patentability of the final product per se which must be determined in a “product by process” claim, and not the patentability of the process, and that an old or obvious product produced by a new method is not patentable as a product, whether claimed in “product by process” claims or not. Note that applicant has the burden of proof in such cases, as the above case law makes abundantly clear.

Art Unit: 2813

Claim 18

Incorporating all arguments of Claim 13 and noting that the method of forming a device is not germane to the issue of patentability of the device itself. Therefore, the limitation of "wherein at least one of the first plated film and the second plated film is formed by a printing method", has not been given patentable weight. Note that a "product by process" claim is directed to the product per se, no matter how actually made, *In re Hirao*, 190 USPQ 15 at 17 (footnote 3). See also *In re Brown*, 173 USPQ 685; *In re Luck*, 177 USPQ 523; *In re Fessmann*, 180 USPQ 324; *In re Avery*, 186 USPQ 161; *In re Wertheim*, 191 USPQ 90 (209 USPQ 554 does not deal with this issue); *In re Marosi et al*, 218 USPQ 289; and particularly *In re Thorpe*, 227 USPQ 964, all of which make it clear that it is the patentability of the final product per se which must be determined in a "product by process" claim, and not the patentability of the process, and that an old or obvious product produced by a new method is not patentable as a product, whether claimed in "product by process" claims or not. Note that applicant has the burden of proof in such cases, as the above case law makes abundantly clear.

Response to Arguments

3. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP


§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Hogans whose telephone number is (703) 305-3361. The examiner can normally be reached on M-F (7:30-4:30).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Whitehead Jr. can be reached on (703) 308-4940. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.


CARL WHITEHEAD, JR.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Application/Control Number: 10/022,262
Art Unit: 2813

Page 8

dh 
September 23, 2003